

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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CIPCIAO, LLC,

Plaintiff,

-against-

20 **CIVIL** 5982 (JMF)

JUDGMENT

M. CHOW ONE, LLC and MICHAEL CHOW,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated March 24, 2021, both Defendants' motions to dismiss are GRANTED in full. The Court need not and does not reach Defendants' alternative arguments for dismissal. Additionally, the Court declines to grant Cipcio leave to amend its Complaint *sua sponte*. Although leave to amend a complaint should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), it is ultimately "within the sound discretion of the district court to grant or deny leave to amend," *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007). Here, Cipcio does not request leave to amend or suggest that it is in possession of facts that would cure the problems with its claims. *See, e.g., Fischman v. Mitsubishi Chem. Holdings Am., Inc.*, No. 18-CV-8188 (JMF), 2019 WL 3034866, at *7 (S.D.N.Y. July 11, 2019) (declining to grant leave to amend as to certain claims in the absence of any suggestion that additional facts could remedy defects in the plaintiff's pleading). Additionally, the Court granted Cipcio leave to amend its Complaint in response to Defendants' motions to dismiss, but Cipcio did not take this opportunity. In granting leave to amend, the Court explicitly warned that Cipcio would "not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss." ECF No. 17. In light of these circumstances, the Court will not *sua sponte* grant leave to amend. *See, e.g., Overby v. Fabian*, No.

17-CV-3377 (CS), 2018 WL 3364392, at *14 (S.D.N.Y. July 10, 2018) (“Plaintiff’s failure to fix deficiencies in his . . . pleading, after being provided ample notice of them, is alone sufficient ground to deny leave to amend *sua sponte*.”); Judgment is entered for Defendants, and this case is closed.

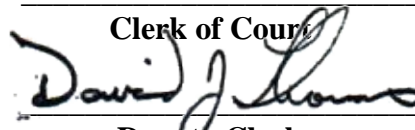
Dated: New York, New York

March 25, 2021

RUBY J. KRAJICK

Clerk of Court

BY:



Deputy Clerk